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FEDERAL COMMUNICATIONS COMMISSION
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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations (Rosendale, New York)	)	MM Docket No. 93-17 RM-8170

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

JOINT COUNTERPROPOSAL

1. Sacred Heart University, Inc. ("SHU") and Radio South Burlington, Inc., ("RSB") jointly, by their counsel, hereby

BACKGROUND

3. Sacred Heart University, Inc., is the licensee of noncommercial educational FM Station WSHU(FM), Fairfield, Connecticut. By this counterproposal, SHU seeks to establish a new reserved noncommercial educational station to serve Sharon, Connecticut, on Channel *277A. That channel is currently authorized for use by Station WQQQ(FM), Sharon, Connecticut, on a commercial basis. RSB desires to change the community of license for its facility to Channel 273A at Washington, New York, in order to provide a first local service. The allotment of Channel 273A to Washington is mutually exclusive with the proposal by SUNY to allot Channel 273A to Rosendale. Under this counterproposal, Rosendale would receive Channel 255A instead. SHU and RSB believe that the public interest would be better served by its counterproposal than by SUNY's proposal for several reasons.

DEMOGRAPHICS

4. Washington is located in Dutchess County, New York, and listed in the 1990 U.S. Census with a population of 4,479. Dutchess County's population is 259,462. Washington is an incorporated community with a local government structure which is comprised of a Town Supervisor and a five member elected Town Board, which is responsible for providing residents with

municipal services. Washington would receive a first local service by the modification of RSB's permit.

5. Sharon, which is located in Litchfield County, Connecticut, has a 1990 U.S. Census population of 2,928. Litchfield County has a 1990 U.S. Census population of 174,092 persons. SHU intends to apply for Channel *277A as a first noncommercial educational station at Sharon and to establish classical music and fine arts programming for this area, which is known for its active fine arts community. Sharon also receives service from daytime only Station WKZE(AM). Channel 277A, authorized to RSB for Station WQQQ(FM), is unbuilt at this time.

6. Rosendale, which is located in Ulster County, has a 1990 U.S. Census population of 6,200. Ulster County has a population of 165,304. Rosendale currently receives local service from share time noncommercial educational Station WFNP(FM), licensed to SUNY.

DISCUSSION

I. SHARON

7. As indicated in the attached engineering statement of Communications Technologies, Inc., Channel 277A can be allocated to Sharon at SHU's proposed coordinates (42° 00' 03" and 73° 26'

24") as a 6 kW Class A channel. Station WQQQ(FM) is currently authorized to use Channel 277A as a 3 kW facility. SHU intends to apply at these site location coordinates approximately 15.8 km north of Sharon in order to maximize coverage to unserved and underserved noncommercial educational ("NCE") areas. As indicated in the attached engineering statement, the NCE white area coverage from this location is 17,787 persons in an area of 736 square kilometers. A second NCE service would be provided to 11,865 persons in an area of 459 square kilometers. According to the attached engineering statement, no first or second NCE service would be provided by the allotment of Channel 273A to Rosendale.

8. Channel *277A should be reserved for noncommercial educational use at Sharon because the reserved portion of the FM band (Channels 201-220) is precluded from use by TV Channel 6 Station WRGB, Schenectady, New York, See Engineering Statement. The predicted interference area, as a result of the use of Channels 220 or below, would affect more than 3,000 persons in violation of Section 73.525(c) of the Commission's Rules. Thus, Sharon would be unable to receive local NCE service unless a channel in the unreserved portion of the band is made available for noncommercial educational use. See Crozet and Dillwyn, VA.,

6 FCC Rcd 5159(1991), recon. denied, 8 FCC Rcd 179 (1993); West Lafayette, Ind., 3 FCC Rcd 3625 (1988).

II. WASHINGTON

9. RSB desires to have its permit modified to specify Washington in order to provide first local service. Channel 273A can be used at RSB's proposed site 6.1 km southeast of the community (41° 45′ 00" and 73° 37′ 44"), consistent with the

proposed use of NCE reserved channels *277A at Sharon.[1/] Furthermore, RSB would not be depriving Sharon of existing service because Station WQQQ is unbuilt having been granted extensions of time to construct due to local zoning problems. As shown in the attached Engineering Statement, a significant improvement in the coverage area of Station WQQQ's currently authorized service (2,030 sq. km and 59,257 persons) will be realized both by the proposed 6 kW NCE service on Channel *277A by SHU (2,754 sq. km and 63,289 persons) and by the relocation of Station WQQQ to Washington (2,473 sq. km and 240,162 persons. Finally, Washington is not located within any urbanized area.

10. Thus, in view of the public interest benefits of a first local service to Washington, retention of local service at Sharon, substantial NCE white and grey area services and significant increases in the service area of both proposed stations, the Commission should allocate Channel *277A to Sharon, Channel 273A to Washington, and modify RSB's permit to specify this channel.

III. ROSENDALE

11. As the NPRM indicates, Channel 255A is available for use at Rosendale to provide a fulltime local NCE service. Station WFNP is currently authorized to provide local service to

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1/ RSB was the only applicant for the Sharon channel during the filing window period and therefore did not receive the permit as a result of a comparative hearing.

Rosendale on a shared time basis. Therefore, SUNY is not proposing to offer a first local service to the community. Nevertheless, SUNY's interest in expanding its hours of operation to fulltime can be accommodated on Channel 255A by reserving this channel for NCE use. In the absence of an expression of interest for commercial use of Channel 255A at Rosendale and of a showing of greater need for commercial use Channel 255A can be reserved for NCE use in Rosendale due to overlap with TV Channel 6 Station WRGB. As a 6 kW facility, Channels 201-220 are unavailable for use at Rosendale because the Schenectady TV Channel 6 station would receive interference affecting more than 3,000 persons in violation of Section 73.525(c) of the Commission's Rules. Station WFNP's current operation on Channel 204 at Rosendale is a 3 kW equivalent facility and employs vertical polarization.

12. Furthermore, SUNY's proposal to move Channel 273A at Rosendale as a 6 kW facility southeast of the community will actually reduce the number of persons within its 60 dBu coverage area (by over 40,000 persons, in comparison to the number of persons it currently serves as a 3 kW facility on Channel 204A (280,169 versus 320,268).

CONCLUSION

13. As can be seen, the public interest benefits of allocating Channel *277A to Sharon on a reserved NCE basis,

Channel 273A to Washington and modification of RSB's permit, accordingly, and allotting Channel *255A to Rosendale reserved for NCE use are overwhelming when compared to the allotment of Channel 273A to Rosendale. In summary, the joint SHU and RSB counterproposal provides:

(1) First and second NCE service to 17,787 persons in a 736 sq. km and 11,865 persons in a 459 sq km area respectively;

(2) First local NCE service to Sharon;

(3) First local service to Washington;

(4) First fulltime NCE service to Rosendale; and

(5) Significant gain area increases in service by 6 kW usage of channels at Sharon and Washington.

Any of these public interest benefits would outweigh the benefits of SUNY's proposal. In fact, on a comparative basis, SUNY's proposal offers no public interest benefits. Channel *255A can be allocated to Rosendale on a reserved basis and offer to SUNY as much fulltime service as Channel 273A. Further, SUNY's proposal to use Channel 273A instead of Channel 204A will substantially reduce the number of listeners that can be reached.

Accordingly, for the foregoing reasons, SHU and RSB urge the Commission to allocate Channel *277A to Sharon, Channel 273A

to Washington with a modification of Station WQQQ's permit and Channel *255A to Rosendale.

Respectfully submitted,

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April 12, 1993

JOINT ENGINEERING STATEMENT IN SUPPORT OF

COUNTERPROPOSAL IN MM DOCKET NO. 93-17

(ROSENDALE, NEW YORK)

AMENDMENT TO SECTION 73.202(B)

OF THE RULES

TO

ALLOCATE CH *277A (RESERVED NCE-FM)

TO

SHARON, CONNECTICUT

ADD CH 273A

AT

WASHINGTON, NEW YORK

ADD CH 255A

AT

ROSENDALE, NEW YORK

APRIL 1993

JOINT ENGINEERING STATEMENT IN SUPPORT OF COUNTERPROPOSAL IN MM DOCKET NO. 93-17 (ROSENDALE, NEW YORK) AMENDMENT TO SECTION 73.202(B) OF THE RULES TO ALLOCATE CH *277A (RESERVED NCE-FM) TO SHARON, CONNECTICUT

ADD CH 273A AT WASHINGTON, NEW YORK

ADD CH *255A AT ROSENDALE, NEW YORK

APRIL 1993

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ADD CH 273A AT WASHINGTON, NEW YORK

ADD CH 255A AT ROSENDALE, NEW YORK

APRIL 1993

SUMMARY

The following engineering statement has been prepared on behalf of **Sacred Heart University, Inc. ("SHU")** and **Radio South Burlington, Inc. ("RSB")**, permittee for WQQQ-FM, Channel 277A, Sharon, Connecticut. **RSB** wishes to upgrade WQQQ from 3 kW Class A to 6 kW Class A operation by virtue of a channel change to Channel 273A and a change of community of license to Washington, New York. **SHU** wishes to establish an allocation in northwestern Connecticut for a new 6 kW Class A channel reserved for noncommercial educational use on Channel 277A at Sharon, Connecticut and delete the current 3 kW allocation on Channel 277A.

The changes to the Table of Allotments suggested herein are a counterproposal to the Petition for Rulemaking filed by the State University of New York, RM-8170, MM Docket No. 93-17, Rosendale, New York for the allotment of Channel 273A. The joint petitioners will demonstrate that the counterproposal will result in a more efficient distribution of services and will provide service to NCE white area not achievable in any manner other than that proposed herein.

PROPOSED AMENDMENT TO THE TABLE OF ALLOTMENTS

The proposed amendments to the Table of Allotments, as proposed herein, may be summarized as follows:

Community	Present	Proposed	Reference Coordinates
Sharon, CT	277A (3 kW)	*277A (6 kW)	N.L. 42° 00' 03" W.L. 73° 26' 24"
Washington, NY	--	273A	N.L. 41° 45' 00" W.L. 73° 37' 44"
Rosendale, NY	--	*255A	N.L. 41° 55' 45" W.L. 74° 07' 44"

The 70 dBu contour distance for a 6 kW, Class A facility is 16.2 kM. The U.S. Atlas reference coordinates for each community are no more than 16 kM from that community's proposed allocation reference coordinates, as seen below:

Community	From Ref. to Atlas coordinates Dist. kM	
Sharon, CT	15.8	North
Washington, NY	6.1	Southeast
Rosendale, NY	10.1	Northwest

The direct bearing from the proposed Sharon Channel 277 reference site to the U.S. Atlas coordinates is 181.8 degrees True. On this bearing, for a HAAT of (141.8 meters and an ERP of 4.3 kW) the 70 dBu contour extends out 17.9 kM, assuring full city grade service to Sharon. This feature is noted because **SHU** has chosen the proposed site (an existing tower) to provide optimum service to white and grey areas as seen on *Figure 3*. Although not a factor at this time, a pending Construction Permit grant to WXCI, Danbury, Connecticut will close up the NCE white area south of the proposed 60 dBu contour in the near future.

Due to the desirability of providing a new NCE aural service to the largest underserved area, SHU requests that its proposed reference coordinates be those used in this proceeding. The public interest will be served by protecting a known site which is able to provide wide area NCE service to underserved areas.

SHARON, CONNECTICUT, NCE WHITE AREA

Figure 3, attached, is a 1:500,000 scale map base showing the 60 dBu contours of all authorized NCE FM services that would duplicate any portion of the 60 dBu contour of the proposed Sharon, Connecticut Channel 277A NCE reserved allocation, and the Channel 255A and 273A proposals for Rosendale, New York. The proposed Sharon facility would bring a first NCE aural service to 17,787 persons in an area of 736 square kilometers. The facility would bring a second NCE aural service to 11,865 persons in an area of 459 square kilometers.

The proposed Rosendale Channel *255 60 dBu contour is duplicated by two or more existing NCE aural services.

COMMUNITY INFORMATION

Sharon, Connecticut is located in Litchfield County, Connecticut. Based on 1990 census data, the population of Litchfield County is 174,092 persons while the population of Sharon is 2,928 persons. Based on 1980 census data, Litchfield County had a population of 156,769 persons while Sharon had a population of 2,623 persons. The county population has increased by 11.05% while the city population has increased by 11.2%.

Sharon has one licensed aural outlet, AM Station WKZE, 1020 kHz, 2.5 kW daytime only.

Washington Town, New York is located in Dutchess County. Based on 1990 census data, the population of Dutchess County is 259,462 persons while the population of Washington is 4,479 persons. Based on 1980 census data, Dutchess County had a population of 245,055 persons while

Washington Town had a population of 4,382 persons. The county population has increased by 5.9% while the city population has increased by 2.2%.

There are no aural outlets authorized to Washington, New York.

CH 277A RESERVATION FOR NCE USE

SHU requests that the proposed Ch 277A allocation be reserved for noncommercial educational FM use. **SHU** wishes to establish a new NCE-FM outlet to serve the northwestern portion of Connecticut and portions of Massachusetts and New York, believing that this area is underserved or unserved by authorized NCE-FM services as described more fully herein.

SHU has determined that a new NCE-FM station is precluded from operation in the reserved FM band by the requirements found in *Section 73.525* of the Rules. The proposed Sharon transmitter site is located inside the Grade B service contour of Channel 6 TV Station WRGB, Schenectady, New York. *Section 73.525(c)* states that an applicant for a new NCE-FM station must submit a showing indicating that no more than 3,000 persons will receive predicted interference from the proposed NCE-FM station. **SHU** will demonstrate that in the best case interference to Ch 6 television will occur to 4,035 persons from a 6 kW at 100 meter HAAT, Class A.

The WRGB TV site is located 84.19 kM from the proposed Sharon allocation reference coordinates at a bearing of 327 degrees True. WRGB is licensed for an ERP of 93.3 kW and a radiation center 555 meters AMSL. Based on this data and terrain elevations from the NGDC 30 second terrain database, the HAAT on the direct 146.93° radial from WRGB to the Sharon reference coordinates is 367.3 meters and the signal level is 56.7 dBu. The interfering contours to the WRGB signal around the Sharon site are computed below as described in *Section 73.525(e)(1)*.

Ch 6 Signal WRGB TV - dBu	Ch 220 73.599 Fig 2 dB Offset	Resulting Ch 220 NCE-FM Interfering Contour - dBu
58.5	25.2	83.7
58.0	25.7	83.7
57.5	26.2	83.7
57.0	26.7	83.7
56.5	27.2	83.7
56.0	27.7	83.7
55.5	28.2	83.7
55.0	28.9	83.9

It is clear from the above analysis and review of map *Figure 1* that the 83.7 dBu contour

[redacted]

CHANNEL 255A RESERVATION FOR NCE USE - ROSENDALE, NEW YORK

The joint petitioners suggest that Channel 255A be reserved for noncommercial educational FM use. *Section 73.525* of the Rules would prohibit the construction of a 6 kW, 100 meter HAAT, circularly polarized FM facility in the reserved FM band at the Rosendale reference coordinates because the proposed Rosendale site is located inside the Grade B service contour of WRGB, Schenectady, New York. *Section 73.525(c)* states that an applicant for a new NCE-FM station must submit a showing indicating that no more than 3,000 persons will receive predicted interference from the proposed NCE-FM station. A Channel 220, NCE-FM Class A, located at the Rosendale reference coordinates would cause interference to 6,226 persons within the WRGB Grade B contour.

The WRGB TV site is located 79.4 kM from the proposed Rosendale Channel 255A allocation reference coordinates at a bearing of 8 degrees True. WRGB is licensed for an ERP of 93.3 kW and a radiation center 555 meters AMSL. Based on this data and terrain elevations from the NGDC 30 second terrain database, the HAAT on the direct 188° radial from WRGB to the Rosendale reference coordinates is 160.8 meters and the signal level is 51.2 dBu. The interfering contours to the WRGB signal around the Rosendale site are computed below as described in *Section 73.525(e)(1)*.

Ch 6 Signal WRGB TV - dBu	Ch 220 73.599 Fig 2 dB Offset	Resulting Ch 220 NCE-FM Interfering Contour - dBu
54	30.0	84
53	31.2	84.2
52	32.5	84.5
51	33.5	84.5
50	35	85.0
49	36	85.0
48	37.5	85.5
47	39	86.0

It is clear from the above analysis and review of map *Figure 2* that the 86 dBu contour represents the signal level, with the minimum area, that will cause predicted interference to Channel 6 service. Computations have been performed for Channel 220, since this channel has the least impact on Channel 6 reception for 6 kW at 100 meters HAAT, circular polarization.

As the channels go progressively lower, the interfering contour extends further from the site and the affected population increases (see 73.599 Fig 1 and Fig 2). Therefore, this analysis, Channel 220, reflects the lowest possible interference to Channel 6. If *Section 73.525* acceptability criteria cannot be met on Channel 220, it cannot be met on a lower channel.

Section 73.525(3)(iii) allows for a receive antenna directivity factor for NCE-FM stations located outside the Channel 6, Grade B, contour. The 6 dB receive antenna directivity factor applies over the arc from 258 degrees clockwise through 118 degrees where the interfering signal level is 86 + 6 dB or 92 dBu. The final interfering contour is the 86 dBu contour from 118 degrees through 258 degrees and the 92 dBu contour over the remainder of the arc (see *Table IX*).

Population within this interference area was counted at the block level using the centroid retrieval method.

GAIN AREA AND POPULATION

Area and population data detail appear in *Tables III - VII* of this statement. The computation of gain area has been undertaken in accordance with the procedure in a Report and Order in MM Docket No. 86-29 (Amendment of Section 73.202(b), Table of Allotments, Greenup, Kentucky and Athens, Ohio) with the exceptions enumerated below which increase the accuracy of the calculations:

Actual terrain data was utilized for determining the location of the 60 dBu

The State University of New York proposal would serve a smaller total population and area as tabulated below:

Facility Studied	Area Square kM	Population # Persons
WFNP Ch 204A (Lic.) Rosendale, NY	1,975	320,268
Proposed Ch 273A Rosendale, NY (6 kW)	2,520	280,169
Total Gain =	545 sq. kM	-40,099 persons

CONCLUSION

The proposed amendments to the Table of Allotments will:

1. Provide a first and second NCE-FM service to significant area and population.
2. Bring a new first aural service to Washington, New York.
3. Bring a new first NCE-FM aural service to Sharon, Connecticut.
4. Bring a new first, full-time, NCE-FM aural service to Rosendale, New York.
5. Effect a more efficient use of Channel 277 by increasing the allocation to 6 kilowatts.

TABLE I

ALLOCATION STUDY

PROPOSED CHANNEL 277A

SHARON, CONNECTICUT

APRIL 1993

Search of channel 277A+ (103.3 MHz), at N. 42 0 3, W. 73 26 24.

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
ALC	Hartford	CT	275	B	U	69.4	69.0	134.5°	0.4
WDRCFM	Hartford	CT	275	B	L	69.4	69.0	134.5°	0.4
WHRL	Albany	NY	276	A	L	76.1	72.0	345.1°	4.1
ALC	Albany	NY	276	A	U	76.1	72.0	345.1°	4.1
ALC	Newburgh	NY	276	A	U	82.6	72.0	224.8°	10.6
WGNYFM	Newburgh	NY	276	A	L	82.6	72.0	224.8°	10.6
ALC	Boston	MA	277	B	U	186.2	178.0	79.5°	8.2
ALC	Sharon	CT	277	A	U	13.0	115.0	218.1°	-102.0
ALC	Princeton	NJ	277	B	U	210.2	178.0	209.2°	32.2
WWPR	Sharon	CT	277	A	C	13.5	115.0	226.8°	-101.5
WODS	Boston	MA	277	B	L	186.2	178.0	79.5°	8.2
WPRB	Princeton	NJ	277	B	L	217.6	178.0	208.8°	39.6
WWPR	Sharon	CT	277	A	A	14.3	115.0	230.4°	-100.7
ALC	Cobleskill	NY	278	B	U	138.3	113.0	321.3°	25.3
ALC	Lake Success	NY	278	B	U	151.0	113.0	198.5°	38.0
WSHQ	Cobleskill	NY	278	B	L	138.3	113.0	321.3°	25.3
WYNY	Lake Success	NY	278	B	L	150.9	113.0	198.5°	37.9
WQBKFM	Rensselaer	NY	280	A	C	70.5	31.0	337.0°	39.5
WQBKFM	Rensselaer	NY	280	A	L	70.5	31.0	337.0°	39.5
ALC	Rensselaer	NY	280	A	U	70.5	31.0	337.0°	39.5

TABLE II

ALLOCATION STUDY

PROPOSED CHANNEL 273A

WASHINGTON, NEW YORK

APRIL 1993

Search of channel 273A+ (102.5 MHz), at N. 41 45 0, W. 73 37 44.

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
W219AQ	Hurley, etc.	NY	219	D	L	34.2	0.0	298.2°	34.2
WXCI	Danbury	CT	219	A	L	42.9	10.0	156.5°	32.9

TABLE III

DISTANCE TO CONTOURS, AREA AND POPULATION DATA

EXISTING CHANNEL 277A (BPH-920709IB AS AMENDED ON 12-7-92)

SHARON, CONNECTICUT

APRIL 1993

DISTANCES TO CONTOURS (Kilometers):

Frequency: 103.3000 MHz
Coordinates: N 41 55 8 W 73 34 22
F(50,50) Curves Number of Contours: 1

AZ (degs)	HAAT (m)	ERP (kW)	CONTOUR LEVELS (dBu): 60.0
.0	230	1.0000	27.5
45.0	84	1.0000	16.8
90.0	205	1.0000	26.0
135.0	191	1.0000	25.1
180.0	170	1.0000	23.9
225.0	177	1.0000	24.3
270.0	234	1.0000	27.7
315.0	279	1.0000	30.1

AREA: 2,030 SQUARE KILOMETERS

POPULATION: 59,257 PERSONS